



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 50
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,273	07/30/2001	Masami Mizutani	FUJR 18.873	2783
26304 7590 01/24/2007 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			EXAMINER JACKSON, JENISE E	
			ART UNIT	PAPER NUMBER
			2131	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/918,273

Applicant(s)

MIZUTANI ET AL.

Examiner

Jenise E. Jackson

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20070118</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster et al(6,512,761) in view of Eskicioglu et al(7,039,802).

3. As per claim 1, Schuster discloses a communication system enabling communications between a subscriber and a station(see fig. 2, sheet 2, col. 6, lines 48-57, a delivery device installed on a station side(col. 8, lines 46-58, fig. 2, sheet 2), and delivery device including delivery means for controlling delivery of a media stream(see col. 6, lines 46-52), lost data extracting means extracting lost data from a media stream content(see col. 10, lines 1-13), accounting control means(i.e. billing entity) calculates a charge based on the media quality information and pays back a proper amount of money to the subscriber, in cases where degradation of the media stream(see col. 11, lines 61-67, col. 12, lines 1-17, col. 13, lines 44-57); wherein the lost data extracting means specifies a lost part of media stream, based on the media quality information, an algorithm identifier is inherent in Schuster, because Schuster discloses a packet that has a header and payload portion, a packet is inherent that it has an algorithm identifier which is the size of the packet, every packet has a certain length(see col. 9, lines 8-12), and an initial value of the sequence number, and generates lost data information(see col. 9, lines 9-23, col. 10, lines 1-14), wherein the algorithm identifier is an identifier indicative of a size in



Art Unit: 2131

accordance with which the media stream is packetized, and the initial value of the sequence number denotes a sequence number assigned to a first packet obtained by packetizing the media stream(see col. 9, lines 8-23); a terminal device installed on the subscriber side(see col. 6, lines 59-64, see fig. 2, sheet 2), and terminal device including receiving means for controlling reception of the media stream(see fig. 2, sheet 2), connection information management means for managing connection information for specifying the media stream(see col. 9, lines 21-23), and media quality measurement control means for controlling measurement of media quality of the specified media stream(see col. 7, lines 50-59), performing media quality control in which a loss of packet is detected by continuity of packets of the specified media stream(see col. 9, 8-20, col. 10, lines 1-11), generating the media quality information including a measurement result and transmitting the generated media quality information to the station(see col. 12, lines 12-67), and quality recovery means for receiving the lost data information and recovering quality of the media stream(see col. 10, lines 8-12). Schuster is silent on authentication means for authenticating a device, which is to receive the media stream. Eskicioglu et al. discloses authentication means for authenticating a device which is to receive the media stream(see col. 3, lines 40-46, col. 4, lines 33-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to include Eskicioglu's authentication means for authenticating a device which is to receive the media stream with Schuster, the motivation is that manufacturers of the set top boxes may desire that the box only be used with selected service providers(see col. 1, lines 65-67 of Eskicioglu). Thus, by authentication of the device, insures that only that device will receive the media stream, and only that media stream can be played with that device.

Art Unit: 2131

4. Same Motivation as above(see claim 1). As per claim 12, recites limitation already addressed(see claim 1 above). Further, claim 12, Schuster discloses media quality measurement control means performs media quality measurement control in which a degradation index of i picture, and b picture in MPEG(i.e. video signals, see col. 6, lines 64-66, col. 7, lines 66-67, col. 8, lines 1-20) are calculated, the media quality measurement control means cumulates a degree of influence of propagation of error that occurred either one of the I picture, the p picture, and the b picture stream earlier in time than a picture being replayed to calculate the degradation index and transmits the degradation index as the media quality information to the station(see col. 5, lines 30-41, 50-63, col. 13, lines 24-43), and the accounting control means normalizes the degradation index that is cumulative degradation value measured from the beginning through to the end of a program and calculates a charge based on the normalized degradation index and pays back a proper amount of money to the subscriber, depending on the state of the degradation of the media stream(see col. 13, lines 24-43, col. 12, lines 12-32).

5. Same Motivation as above. As per claim 14, recites limitations already addressed (see claim 1 above). Further claim 14, Schuster discloses the media quality measurement control means cumulates a degree of influence of propagation of error that occurred either one of the i picture, the p picture, and the b picture earlier in time than a picture being replayed to calculate the degradation index and transmits the degradation index(see col. 5, lines 9-38, col. 13, lines 24-43), and a position information of a degraded frame as the media quality information to the station (see col. 9, lines 9-38, col. 10, lines 1-13, col. 13, lines 24-43), the accounting control means causes a degree of importance of the degraded media unit to be reflected in a calculation of a charge with reference to the position information, and the degree of importance is an extent

Art Unit: 2131

to which a viewer is satisfied with the delivered media(see col. 12, lines 12-32, col. 13, lines 24-43).

Response to Amendment

6. The Examiner has acknowledged receipt of all certified copies of all certified copies of priority documents for this application.

7. The Draftperson reviews the drawings for formal review, this can be done at the time of issue, if allowed.

8. The Applicant states Schuster does not disclose or suggest specifying a lost part of the multimedia stream, based on the media quality information, an algorithm identifier and initial value of the sequence number, and generating lost data information. Schuster discloses that each packet has a sequence number, if there is a delay or jitter the packet can become lost, or arrive out of sequence(see col. 9, lines 8-23, col. 10, lines 1-13). Schuster discloses an algorithm identifier, because Schuster discloses a packet, that has a header and payload portion, it is inherent that packets have a specified size(see col. 9, lines 8-14). The packets in Schuster have to arrive at the receiving end in a certain sequence and specific time frame(see col. 11, lines 60-67, col. 12, lines 1-11). If there is insufficient delay can result in packet loss(see col. 12, lines 5-8). Thus the generation of lost data information, is due to a delay or jitter in Schuster(see col. 4, lines 17-31).

9. The Applicant states that Schuster does not disclose cumulating the degree of influence of propagation of error that occurred on either one of i picture, b picture earlier in time than a picture being replayed to calculate the degradation index. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a

Art Unit: 2131

patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Final Action

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

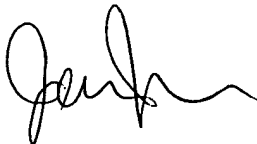
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenise E. Jackson whose telephone number is (571) 272-3791. The examiner can normally be reached on M-Th (6:00 a.m. - 3:30 p.m.) alternate Friday's.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2131

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



January 18, 2007



AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100